

RESOLUTION NO. 4 4 2 5

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE MAYOR AND THE CITY CLERK TO EXECUTE AN AGREEMENT FOR SERVICES BETWEEN THE CITY OF AUBURN AND THE AUBURN AREA CHAMBER OF COMMERCE TO OPERATE A VISITOR INFORMATION CENTER, PROMOTE TOURISM AWARENESS WITHIN THE CITY AND TO PROVIDE SERVICES ASSOCIATED WITH SUPPORTING THE CITY'S ECONOMIC DEVELOPMENT EFFORTS

WHEREAS, The City is engaged in its projects of operating a visitor information center, promoting tourism and economic development, and is in need of services of individuals, employees or firms for organizational work on said project; and,

WHEREAS, the City desires to retain the Consultant to provide certain services in connection with the City's work on said projects; and,

WHEREAS, the Consultant is qualified and able to provide consulting services in connection with the City's needs for the above-described work/project, and is willing and agreeable to provide such services upon the terms and conditions herein contained.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. Purpose. The Mayor and the City Clerk of the City of Auburn are hereby authorized to execute an Agreement for Services with The Auburn Area Chamber of Commerce to operate a Visitor Information Center

and to provide services associated with supporting the City's economic development efforts.

Section 2. Implementation. The Mayor of the City of Auburn is hereby authorized to implement such administrative procedures as may be necessary to carry out the directions of this resolution.

Section 3. Effective Date. This Resolution shall take effect and be in full force upon passage and signatures hereon.

DATED and SIGNED THIS _____ DAY OF _____, 2008 .

CITY OF AUBURN

PETER B. LEWIS
MAYOR

ATTEST:

Danielle E. Daskam,
City Clerk

APPROVED AS TO FORM:



Daniel B. Heid,
City Attorney

CITY OF AUBURN AGREEMENT FOR SERVICES

THIS AGREEMENT made and entered into on this ____ day of _____, 200__, by and between the City of Auburn, a municipal corporation of the State of Washington, hereinafter referred to as "City" and The Auburn Area Chamber of Commerce, hereinafter referred to as the "Consultant."

W I T N E S S E T H :

WHEREAS, The City is engaged in its projects of operating a visitor information center, promoting tourism, and economic development, and is in need of services of individuals, employees or firms for organizational work on said project; and,

WHEREAS, the City desires to retain the Consultant to provide certain services in connection with the City's work on said projects; and,

WHEREAS, the Consultant is qualified and able to provide consulting services in connection with the City's needs for the above-described work/project, and is willing and agreeable to provide such services upon the terms and conditions herein contained.

NOW, THEREFORE, the parties hereto agree as follows:

1. Scope of Services.

The Consultant agrees to perform in a good and professional manner the tasks described on Exhibit "A" attached hereto and incorporated herein by this reference. (The tasks described on Exhibit "A" shall be individually referred to as a "task," and collectively referred to as the "services.") The Consultant shall perform the services as an independent contractor and shall not be deemed, by virtue of this Agreement and the performance thereof, to have entered into any partnership, joint venture, employment or other relationship with the City.

2. Additional Services.

From time to time hereafter, the parties hereto may agree to the performance by the Consultant of additional services with respect to related work or projects. Any such agreement(s) shall be set forth in writing and shall be executed by the respective parties prior to the Consultant's performance of the services there under, except as may be provided to the contrary in Section 3 of this Agreement. Upon proper completion and execution of an addendum (agreement for additional services), such addendum shall be incorporated into this Agreement and shall have the same force and effect as if the terms of such addendum were a part of this Agreement as originally executed. The performance of services pursuant to an addendum shall be subject to the terms and conditions of this Agreement except where the addendum provides to the contrary, in which case the terms and conditions of any such addendum shall control. In all other respects, any addendum shall supplement and be construed in accordance with the terms and conditions of this Agreement.

3. Performance of Additional Services Prior to Execution of an Addendum.

The parties hereby agree that situations may arise in which services other than those described on Exhibit "A" are desired by the City and the time period for the completion of such services makes the execution of addendum impractical prior to the commencement of the Consultant's performance of the requested services. The Consultant hereby agrees that it shall perform such services upon the oral request of an authorized representative of the City pending execution of an addendum, at a rate of compensation to be agreed to in connection therewith. The invoice procedure for any such additional services shall be as described in Section 7 of this Agreement.

4. Consultant's Representations.

The Consultant hereby represents and warrants that he has all necessary licenses and certifications to perform the services provided for herein, and is qualified to perform such services.

5. City's Responsibilities.

The City shall do the following in a timely manner so as not to delay the services of the Consultant:

- a. Designate in writing a person to act as the City's representative with respect to the services. The City's designee shall have complete authority to transmit instructions, receive information, interpret and define the City's policies and decisions with respect to the services.
- b. Furnish the Consultant with all information, criteria, objectives, schedules and standards for the project and the services provided for herein.
- c. Arrange for access to the property or facilities as required for the Consultant to perform the services provided for herein.
- d. Examine and evaluate all studies, reports, memoranda, plans, sketches, and other documents prepared by the Consultant and render decisions regarding such documents in a timely manner to prevent delay of the services.

6. Acceptable Standards.

The Consultant shall be responsible to provide, in connection with the services contemplated in this Agreement, work product and services of a quality and professional standard acceptable to the City.

7. Compensation.

As compensation for the Consultant's performance of the services provided for herein, the City shall pay the Consultant the fees and costs specified on Exhibit "B" attached hereto and made a part hereof (or as specified in an addendum). The Consultant shall submit to the City an invoice or statement of time spent on tasks included in the scope of work provided herein, and the City shall process the invoice or statement in the next billing/claim cycle following receipt of the invoice or statement, and shall remit payment to the Consultant thereafter in the normal course, subject to any conditions or provisions in this Agreement or addendum.

8. Time for Performance and Term of Agreement.

The Consultant shall perform the services provided for herein in accordance with the direction and scheduling provided by the City. The Term of this Agreement shall

commence on the date hereof and shall terminate on December 31, 2009, or upon another date if mutually agreed to in writing by the parties, subject to the restrictions in section 18.

9. Ownership and Use of Documents.

All documents, reports, memoranda, diagrams, sketches, plans, surveys, design calculations, working drawings and any other materials created or otherwise prepared by the Consultant as part of his performance of this Agreement (the "Work Products") shall be owned by and become the property of the City, and may be used by the City for any purpose beneficial to the City.

10. Records Inspection and Audit.

All compensation payments shall be subject to the adjustments for any amounts found upon audit or otherwise to have been improperly invoiced, and all records and books of accounts pertaining to any work performed under this Agreement shall be subject to inspection and audit by the City for a period of up to three (3) years from the final payment for work performed under this Agreement.

11. Continuation of Performance.

In the event that any dispute or conflict arises between the parties while this Contract is in effect, the Consultant agrees that, notwithstanding such dispute or conflict, the Consultant shall continue to make a good faith effort to cooperate and continue work toward successful completion of assigned duties and responsibilities.

12. Administration of Agreement.

This Agreement shall be administered by the Chief Operating Officer of the Chamber, on behalf of the Consultant, and by the Mayor of the City, or designee, on behalf of the City. Any written notices required by the terms of this Agreement shall be served on or mailed to the following addresses:

City of Auburn

Auburn City Hall
25 West Main
Auburn, WA 98001-4998
(253) 931-3000 FAX (253) 288-3132

Consultant

Auburn Chamber of Commerce
108 N. Division Suite B
Auburn, WA 98001
(253) 833-0700 Fax (253) 735 4091

13. Notices.

All notices or communications permitted or required to be given under this Agreement shall be in writing and shall be deemed to have been duly given if delivered in person or deposited in the United States mail, postage prepaid, for mailing by certified mail, return receipt requested, and addressed, if to a party of this Agreement, to the address for the party set forth above, or if to a person not a party to this Agreement, to the address designated by a party to this Agreement in the foregoing manner.

Any party may change his, her or its address by giving notice in writing, stating his, her or its new address, to any other party, all pursuant to the procedure set forth in this section of the Agreement.

14. Insurance.

The Consultant shall be responsible for maintaining, during the term of this Agreement and at its sole cost and expense, the types of insurance coverages and in the amounts described below. The Consultant shall furnish evidence, satisfactory to the City, of all such policies. During the term hereof, the Consultant shall take out and maintain in full force and effect the following insurance policies:

- a. Comprehensive public liability insurance, including automobile and property damage, insuring the City and the Consultant against loss or liability for damages for personal injury, death or property damage arising out of or in connection with the performance by the Consultant of its obligations hereunder, with minimum liability limits of \$1,000,000.00 combined single limit for personal injury, death or property damage in any one occurrence.
- b. Such workmen's compensation and other similar insurance as may be required by law.
- c. Professional liability insurance with minimum liability limits of \$1,000,000.

15. Indemnification.

The Consultant shall indemnify and hold harmless the City and its officers, agents and employees, or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by any reason of or arising out of the negligent act or omission of the Consultant, its officers, agents, employees, or any of them relating to or arising out of the performance of this Agreement. If a final judgment is rendered against the City, its officers, agents, employees and/or any of them, or jointly against the City and the Consultant and their respective officers, agents and employees, or any of them, the Consultant shall satisfy the same to the extent that such judgment was due to the Consultant's negligent acts or omissions.

16. Assignment.

Neither party to this Agreement shall assign any right or obligation hereunder in whole or in part, without the prior written consent of the other party hereto. No assignment or transfer of any interest under this Agreement shall be deemed to release the assignor from any liability or obligation under this Agreement, or to cause any such liability or obligation to be reduced to a secondary liability or obligation.

17. Amendment, Modification or Waiver.

No amendment, modification or waiver of any condition, provision or term of this Agreement shall be valid or of any effect unless made in writing, signed by the party or parties to be bound, or such party's or parties' duly authorized representative(s) and specifying with particularity the nature and extent of such amendment, modification or waiver. Any waiver by any party of any default of the other party shall not effect or impair any right arising from any subsequent default.

Nothing herein shall limit the remedies or rights of the parties hereto under and pursuant to this Agreement.

18. Termination and Suspension.

Either party may terminate this Agreement upon written notice to the other party if the other party fails substantially to perform in accordance with the terms of this Agreement through no fault of the party terminating the Agreement.

The City may terminate this Agreement upon not less than seven (7) days written notice to the Consultant if the services provided for herein are no longer needed from the Consultant.

If this Agreement is terminated through no fault of the Consultant, the Consultant shall be compensated for services performed prior to termination in accordance with the rate of compensation provided in Exhibit "B" hereof.

19. Parties in Interest.

This Agreement shall be binding upon, and the benefits and obligations provided for herein shall inure to and bind, the parties hereto and their respective successors and assigns, provided that this section shall not be deemed to permit any transfer or assignment otherwise prohibited by this Agreement. This Agreement is for the exclusive benefit of the parties hereto and it does not create a contractual relationship with or exist for the benefit of any third party, including contractors, sub-contractors and their sureties.

20. Costs to Prevailing Party.

In the event of such litigation or other legal action, to enforce any rights, responsibilities or obligations under this Agreement, the prevailing parties shall be entitled to receive its reasonable costs and attorney's fees.

21. Applicable Law.

This Agreement and the rights of the parties hereunder shall be governed by the interpreted in accordance with the laws of the State of Washington and venue for any action hereunder shall be in of the county in Washington State in which the property or project is located, and if not site specific, then in King County, Washington; provided, however, that it is agreed and understood that any applicable statute of limitation shall commence no later than the substantial completion by the Consultant of the services.

22. Captions, Headings and Titles.

All captions, headings or titles in the paragraphs or sections of this Agreement are inserted for convenience of reference only and shall not constitute a part of this Agreement or act as a limitation of the scope of the particular paragraph or sections to which they apply. As used herein, where appropriate, the singular shall include the plural and vice versa and masculine, feminine and neuter expressions shall be interchangeable. Interpretation or construction of this Agreement shall not be affected by any determination as to who is the drafter of this Agreement, this Agreement having been drafted by mutual agreement of the parties.

23. Severable Provisions.

Each provision of this Agreement is intended to be severable. If any provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Agreement.

24. Entire Agreement.

This Agreement contains the entire understanding of the parties hereto in respect to the transactions contemplated hereby and supersedes all prior agreements and understandings between the parties with respect to such subject matter.

25. Counterparts.

This Agreement may be executed in multiple counterparts, each of which shall be one and the same Agreement and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed effective the day and year first set forth above.

CITY OF AUBURN

CONSULTANT

Peter B. Lewis, Mayor

Name: _____

Title: _____

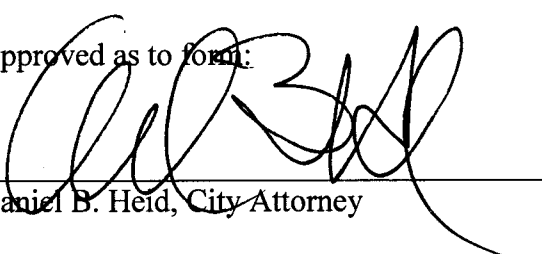
Attest:

Danielle Daskam City Clerk

Name: _____

Title: _____

Approved as to form:



Daniel B. Heid, City Attorney

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

ON THIS _____ day of _____, 200_____, before me, personally appeared _____ and _____, to me known to be the _____ and of the Contractor, the party(ies) who executed - *the corporation/company that executed* the within and foregoing instrument, and acknowledged said instrument to be his/her/their *the* free and voluntary act and deed *of said corporation/company*, for the uses and purposes therein mentioned, *and on oath stated that they were authorized to execute said instrument.*

GIVEN under my hand and official seal this _____ day of _____, 200__.

NOTARY PUBLIC in and for the State of
Washington, residing at _____
My Commission Expires: _____

EXHIBIT A
TASKS AND SERVICES

Service as Auburn's Visitor Information Center:

Annually \$25,000

- Handle inquiries made by visitors, new residents and employees via phone, e-mail, mail, walk up, and respond with the appropriate information and materials
- Operate the City's storefront *Visitor Information Center* where visitors obtain materials and advice during normal business hours. The center will provide sufficient space, display racks, appropriate materials and receptionist.
- Produce and distribute the City business directory, community profile, street maps, and lists containing information about community resources and/or business services.
- Respond to requests from publishers seeking information about Auburn for their magazines, web pages and/or directories.
- Provide City hotels with brochures promoting local attractions, businesses and shops.

Provide support and service to the City's economic development goals and outreach to current and future business community members.

Annually \$15,000

- Assist the City in meeting with current and potential businesses to discuss inducements to conducting or locating a business in Auburn.
- Provide input, feedback and serve on City technical and advisory committees for issues. (Proposed city codes, comprehensive plans and updates, design review, proposed capital improvements, city business processes, and other emerging issues mutually agreed upon).
- Serve as the referral service for individuals seeking to do business with an Auburn business.
- Meet with and provide tours of the City, when scheduling permits, for prospective business investors in conjunction with the City's Economic Development Manager and Planning Department. Actively promote Auburn to prospective new business investors by attending meetings and providing appropriate information.
- Maintain and provide demographic information up to a 30-mile radius from the downtown area.
- Organize and conduct orientations for new employee groups as an incentive for businesses to locate in Auburn.

Provide a service to promote Tourism Awareness for the City of Auburn.

Annually \$40,000

- Coordinate all public relations, marketing, media relations, advertising, and event planning for the Auburn Tourism Board.
- Liaise on marketing and communications matters and coordinate with the individual Board members, who comprise representatives from the City Council, the Auburn Chamber of Commerce, all the major attractions, the lodging sector and other tourism-related businesses.
- Follow up on activities to involve existing and new strategic partners.
- Twice a year the consultant shall provide a report to the Finance Committee on progress made with the Tourism Awareness project.

EXHIBIT B
COSTS

Annual compensation for current scope of work not to exceed \$80,000.